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**Notice of Allowability**

Application No.

10/072,029

Examiner

Ronald D Hartman Jr.

Applicant(s)

BLEVINS ET AL.

Art Unit

2121

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed on 9/9/2004.
2. ☒ The allowed claim(s) is/are 1-39.
3. ☒ The drawings filed on 07 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____. | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material           | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

### DETAILED ACTION

1. This action is in response to the Amendment filed on 9/9/2004.
2. Claims 1-39 are represented for further examination.

#### ***Allowable Subject Matter***

3. Claims 1-39 are allowed.

As per claims 1-39, specifically independent claims 1, 11, 22 and 29, the prior art of record fails to teach or adequately suggest a process controller, or process control element for use in a process controller, wherein the controller comprises a execution rate block for use in calculating the execution rate for a control block based on the process parameters, in combination with the other claimed features and or limitations as claimed by the claimed invention.

The closest available prior art appears to be issued to Burns et al., U.S. Patent No. 5,970,430 and Glanzer et al., U.S. Patent No. 6,594,530 and this is further explained below.

*AK  
11/24/04*  
Burns et al teaches a process control system that allows for different execution times to be performed based on the actual function block being utilized. This information is usually stored in a database that is located with<sup>in</sup> ~~in~~ the field device being controlled, or in the controller itself or is resident in a separate database. As can be seen clearly from Figures 4 and 5, Burns et al contemplates the use of different execution rates for different control functions or blocks, however, Burns et al does not teach the claimed invention in that a specific execution rate block is not utilized. As previously explained, this execution rate block calculates the actual execution time for each block based on the parameters being received from the actual process. This step is not contemplated by the teachings of Burns et al since Burns et al stores the execution rates in advance within memory and does not calculate the execution rate based on the process

parameters and therefore for at least this reason, the claimed invention is believed to be novel over at least Burns et al.

Similarly, Glanzer et al teaches the use of a block-oriented control system that utilizes a execution rate control (figure 3 element 265) for determining the execution of function blocks. Although the execution control may be correctly interpreted to be the functional equivalent of the claimed execution rate block, the execution control of Glanzer et al relies on previously stored values and does not, as is the case with the current claimed invention, perform execution rate control based on the current parameters received from the system, but rather, from information that is pre-stored either in a database, in memory of the device being controlled or in memory of the controlling device. Therefore, for at least the aforementioned reasons, the claimed invention is not contemplated or rendered obvious by the Glanzer et al teaching of an execution rate control feature.

In summary, since the closest available prior art of record (Burns et al and Glanzer et al) do not contemplate the claimed invention, or render the claimed invention obvious for the aforementioned reasons, claims 1-39, specifically independent claims 1, 11, 22 and 29 are believed to be allowable over the prior art of record.

Dependent claims 2-10, 12-21, 23-28 and 30-39 are therefore allowable as well since they depend from an allowed base claims (1, 11, 22 and 29).

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D Hartman Jr. whose telephone number is (571) 272 - 3684. The examiner can normally be reached on Mon. - Fri., 11:30 am - 8:00 pm EST.

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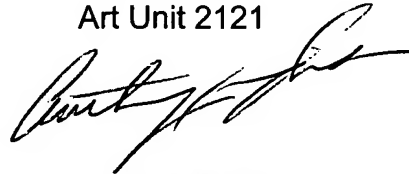
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached at (571) 272 - 3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.

Examiner

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A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name and title.

**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**